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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/486,821	03/02/2000	ANTTI TOSKALA	PM257637	1198

7590 06/04/2003
PILLSBURY WINTHROP LLP
1600 TYSON BOULEVARD
McLEAN, VA 22102

EXAMINER

NGUYEN, BRIAN D

ART UNIT	PAPER NUMBER
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2661

DATE MAILED: 06/04/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/486,821

Applicant(s)

TOSKALA ET AL.

Examiner

Brian D Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on the application filed 3/2/00.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 March 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8 & 9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

Claim Objections

2. Claims 26-50 and 53 are objected to because of the following informalities:

Claim 26, line 4, "user equipment" seems to refer back to "user equipment" recited in line 2. If this is true, it is suggested to change "user equipment" in line 4 to ---the user equipment---.

Claim 53, line 1, "chat" is a typographical error. It should be changed to --characterized--

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the required data transmission rate" in line 10 and "the corresponding traffic channel frame" in lines 12-13. There is insufficient antecedent basis for this limitation in the claim.

Claim 2, 7, 27, 32, and 52 recite the limitation "i.e." is unclear.

Claims 8 and 10 recite the limitation "the transport format indicator" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 20 recites the limitation "the user" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claims 22 and 47, the phrase "for instance" render the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim 26 recites the limitation "the required data transmission rate" in line 7 and "the corresponding traffic channel frame" in line 10. There is insufficient antecedent basis for this limitation in the claim.

Claim 33 recite the limitation "the transport format indicator" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 35 recite the limitation "the transport format indicator" in lines 3-4. There is insufficient antecedent basis for this limitation in the claim.

Claim 51 recite the limitation "the radio network subsystem" in lines 2-3 and "the corresponding traffic channel frame" in lines 8-9. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-15, 17-40, and 42-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allpress et al (5,920,552) or Sato (6,130,884) in view of Stewart et al (6,009,091).

Regarding claims 1-15 and 17-25, Allpress and Sato disclose a method for transmitting data from a radio network subsystem to user equipment comprising transmitting a dedicated control channel and a dedicated traffic channel of variable data rate to the user equipment, the spreading code used to spread the traffic channel is changed according to the required data transmission rate, wherein the control channel and traffic channel frames associated with each other are transmitted on the same frequency, spread with a different spreading code, and separated by one frame length at most (see abstract; col. 3, line 66-col. 4, line 3; and col. 6, lines 9-16 of Allpress) (see abstract; col. 1, lines 5-12; and col. 4, lines 16-28 of Sato). Allpress and Sato do not specifically disclose each control channel frame indicates the spreading code with which the corresponding traffic channel frame is spread when transmitted. However, control channel frame indicates the spreading code with which the corresponding traffic channel frame is spread when transmitted is well known in the art. Stewart discloses each control channel frame indicates the spreading code with which the corresponding traffic channel frame is spread when transmitted (see col. 1, lines 41-63; col. 3, lines 62-67; col. 4, lines 38-51). Therefore, it would have been obvious to those of ordinary skill in the art at the time the invention was made to indicate the spreading code in each control channel frame as taught by Stewart in the system of Allpress or Sato so that the user equipment can use the spreading code to decode the received signals.

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Regarding claims 26-40 and 42-50, claims 26-40 and 42-50 are system claims that have substantially all the limitations of the respective method claims 1-15 and 17-25, thus is subject to the same rejection.

Regarding claims 51-56, claims 51-56 are user equipment claims that have substantially all the limitations of the respective method claims 1-15 and 17-25, thus is subject to the same rejection.

7. Claims 16 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allpress et al (5,920,552) or Sato (6,130,884) in view of Stewart et al (6,009,091) as applied to claims 1 and 26 above, and further in view of Ovesjo et al (6,542,484).

Regarding claims 16 and 41, Allpress or Sato in view of Stewart disclose all the claimed subject matter as described in previous paragraph except for when the sub-code tree becomes congested, the user equipment can be transferred to another sub-code tree. However, Ovesjo discloses when the sub-code tree becomes congested (run out of code), the user equipment can be transferred to another sub-code tree (use code from the second code set) (see col. 3, lines 47-58 and col. 5, lines 33-36). Therefore, it would have been obvious to those of ordinary skill in the art at the time the invention was made to transfer the user equipment to another sub-code tree as taught by Ovesjo in the system of Allpress or Sato in view of Stewart so that service disruption can be avoided when congestion occurs.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Ovesjo et al (6,108,369), Dahlman et al (6,222,875), Fukumasa et al (6,041,034), Honkasalo (6,317,413), and Dahlman et al (5,883,899) are all cited to show wideband code division multiple access method which are considered pertinent to the claimed invention.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian D Nguyen whose telephone number is (703) 305-5133. The examiner can normally be reached on 7:30-6:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Olms can be reached on (703) 305-4703. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

BN
May 29, 2003



Brian Nguyen